

(e) Cooperators which administer construction of FH projects shall maintain their FH records according to 49 CFR part 18.

(f) Funds provided to the FHWA by a cooperator should be received in advance of construction procurement unless otherwise specified in a project agreement.

Subparts B–D [Reserved]

Subpart E—Defense Access Roads

AUTHORITY: 23 U.S.C. 210, 315; 49 CFR 1.48(b).

SOURCE: 49 FR 21924, May 24, 1984, unless otherwise noted.

§ 660.501 Purpose.

The purpose of this regulation is to prescribe policies and procedures governing evaluations of defense access road needs, and administration of projects financed under the defense access roads and other defense related special highway programs.

§ 660.503 Objectives.

The defense access roads program provides a means by which the Federal Government may pay its fair share of the cost of:

- (a) Highway improvements needed for adequate highway service to defense and defense related installations;
- (b) New highways to replace those which must be closed to permit establishment or expansion of defense installations;
- (c) Repair of damage to highways caused by major military maneuvers;
- (d) Repair of damages due to the activities of contractors engaged in the construction of missile sites; and
- (e) Missile routes to ensure their continued ability to support the missile transporter-erector (TE) vehicle.

§ 660.505 Scope.

This regulation focuses on procedures as they apply to the defense access roads and other special highway programs of the Department of Defense (DOD).

§ 660.507 Definitions.

(a) *Defense installation.* A military reservation or installation, or defense related industry or source of raw materials.

(b) *Military Traffic Management Command (MTMC).* The military transportation agency with responsibilities assigned by the Secretary of Defense for maintaining liaison with the Federal Highway Administration (FHWA) and other agencies for the integration of defense needs into the Nation's highway program.

(c) *Certification.* The statement to the Secretary of Transportation by the Secretary of Defense (or such other official as the President may designate) that certain roads are important to the national defense.

(d) *Access road.* An existing or proposed public highway which is needed to provide essential highway transportation services to a defense installation. (This definition may include public highways through military installations only when right-of-way for such roads is dedicated to public use and the roads are maintained by civil authority.)

(e) *Replacement road.* A public road constructed to replace one closed by establishment of a new, or the expansion of an old, defense installation.

(f) *Maneuver area road.* A public road in an area delineated by official orders for field maneuvers or exercises of military forces.

(g) *Transporter-erector route.* A public road specifically designated for use by the TE vehicle for access to missile sites.

§ 660.509 General principles.

(a) State and local highway agencies are expected to assume the same responsibility for developing and maintaining adequate highways to permanent defense installations as they do for highways serving private industrial establishments or any other permanent traffic generators. The Federal Government expects that highway improvements in the vicinity of defense installations will receive due priority consideration and treatment as State and local agencies develop their programs of improvement. The FHWA will provide assistance, as requested by MTMC,

to ascertain State program plans for improvements to roads serving as access to defense installations. Roads which serve permanent defense installations and which qualify under established criteria as Federal-aid routes should be included in the appropriate Federal-aid system.

(b) It is recognized that problems may arise in connection with the establishment, expansion, or operation of defense installations which create an unanticipated impact upon the long-range requirements for the development of highways in the vicinity. These problems can be resolved equitably only by Federal assistance from other than normal Federal-aid highway programs for part or all of the cost of highway improvements necessary for the functioning of the installation.

§ 660.511 Eligibility.

(a) The MTMC has the responsibility for determining the eligibility of proposed improvements for financing with defense access roads funds. The evaluation report will be furnished to MTMC for its use in making the determination of eligibility and certification of importance to the national defense. The criteria upon which MTMC will base its determination of eligibility are included in the Federal-Aid Highway Program Manual, Volume 6, Chapter 9, Section 5, Attachment 2.¹

(b) If the project is determined to be eligible for financing either in whole or in part with defense access road funds, MTMC will certify the project as important to the national defense and will authorize expenditure of defense access road funds. The Commander, MTMC, is the only representative of the DOD officially authorized to make the certification required by section 210, title 23, U.S.C., in behalf of the Secretary of Defense.

§ 660.513 Standards.

(a) Access roads to permanent defense installations and all replacement roads shall be designed to conform to the same standards as the agency hav-

ing jurisdiction is currently using for other comparable highways under similar conditions in the area. In general, where the agency having jurisdiction does not have established standards, the design shall conform to American Association of State Highway and Transportation Officials (AASHTO) standards. Should local agencies desire higher standards than are currently being used for other comparable highways under similar conditions in the area, they shall finance the increases in cost.

(b) Access roads to temporary military establishments or for service to workers temporarily engaged in construction of defense installations should be designed to the minimum standards necessary to provide service for a limited period without intolerable congestion and hazard. As a guide, widening to more than two lanes generally will not be undertaken to accommodate anticipated one-way, peak-hour traffic of less than 1,200 vehicles per hour and resurfacing or strengthening of existing pavements will be held to the minimum type having the structural integrity to carry traffic for the short period of anticipated use.

§ 660.515 Project administration.

(a) Determination of the agency best able to accomplish the location, design, and construction of the projects covered by this regulation will be made by the FHWA Division Administrator after consultation with the State and/or local highway agency within whose jurisdiction the highway lies. When an agency other than the State or local highway agency is selected to administer the project, the Division Administrator will be responsible during the life of the project for any necessary coordination between the selected agency and the State or local highway agency.

(b) Defense access road projects under the supervision of a State or local highway agency, whether on or off the Federal-aid system, shall be administered in accordance with Federal-aid procedures, as modified specifically herein or as limited by the delegations of authority to Regional and Division Administrators, unless approval of other procedures has been obtained

¹This document is available for inspection and copying from the FHWA headquarters and field offices as prescribed by 49 CFR part 7, appendix D.

from Washington Headquarters Office of Direct Federal Programs (HDF-1).

(c) The Division Administrator shall have a firm commitment from the State or local highway agency, within whose jurisdiction the access road lies, that it will accept the responsibility for maintenance of the completed facility before authorization of acquisition of right-of-way or construction of a project.

(d) When defense access road funds are available for a pro-rata portion of the total project cost, the remaining portion of the project may be funded as a Federal-aid project if on a Federal-aid route. Defense access road funds shall not be substituted for the State's matching share of the Federal-aid portion of a project.

§ 660.517 Maneuver area roads.

(a) Claims by a highway agency for costs incurred to restore, to their former condition, roads damaged by maneuvers involving a military force at least equal in strength to a ground division or an air wing will be paid from funds appropriated for the maneuver and transferred to FHWA by the DOD agency. Defense access road funds may be used to reimburse the highway authority pending transfer of funds by the DOD agency.

(b) Costs incurred by State or local highway authorities while conducting a pre- or post-condition survey may be included in the claim to DOD for direct settlement or in the damage repair project as appropriate.

§ 660.519 Missile installations and facilities.

Should damage occur to public highways as a result of construction activities, the contractor would normally be held responsible for restoring the damages. However, should the contractor deny responsibility on the basis of contract terms, restoration is provided for under 23 U.S.C. 210(h).

(a) *Restoration under the contract.* (1) The highway agency having jurisdiction over the road shall take appropriate actions, such as load and speed restrictions, to protect the highway. When extensive damage is anticipated and the contractor under the terms of the contract is responsible, it may be

necessary to require a performance bond to assure restoration.

(2) If the contractor does not properly maintain the roads when requested in writing, the highway agency having jurisdiction over the road shall perform extraordinary maintenance as necessary to keep the roads serviceable and maintain adequate supporting records of the work performed. Claims shall be presented to the contractor for this extraordinary maintenance and any other work required to restore the roads. If the contractor denies responsibility on the basis of the contract terms, the claim with the required supporting documentation shall be presented to the contracting officer for disposition and arrangement for reimbursement.

(b) *Restoration under 23 U.S.C. 210(h).*

(1) To implement 23 U.S.C. 210(h), DOD must make the determination that a contractor for a missile installation or facility did not include in the bid the cost of repairing damage caused to public highways by the operation of the contractor's vehicles and equipment. The FHWA must then make the determination that the State highway agency is, or has been, unable to prevent such damage by restrictions upon the use of the highways without interference with, or delay in, the completion of the contract. If these determinations are made, the Division Administrator will be authorized by the Washington Headquarters to reimburse the highway agency for the cost of the work necessary to keep the roads in a serviceable condition.

(2) Upon receipt of a damage claim, division office representatives accompanied by representatives of the agencies that made the original condition survey will inspect the roads on which damage is claimed. The Division Administrator shall then prepare an estimate of the cost of restoring the roads to original condition as well as any documented cost for extraordinary maintenance for which reimbursement has not been received. No allowance for upgrading the roads shall be included.